

Item No. 2

Application Reference Number P/16/1833/2

Application Type:	Outline Planning Permission	Date Valid:	01/09/2016
Applicant:	Mr D Knight		
Proposal:	Site for the erection of 1 dwelling (revised scheme P/15/1638/2 refers).		
Location:	Land adjacent to 6 Gisborough Way Loughborough Leicestershire LE11 4FU		
Parish:	Loughborough	Ward:	Loughborough Garendon
Case Officer:	Louise Winson	Tel No:	01509 634742

Background

This application was deferred by the Plans Committee on 1st August 2017 to allow for further information to be gathered regarding the sales particulars from when the land was auctioned. Plans Committee members also sought further clarification regarding the nature of the existing use of the land. This report is supplemental to the previous report and seeks only to address the queries raised by the Plans Committee. It should be read in conjunction with the previous report which is appended to this report for ease of reference.

Site Location and Description

As detailed in the previous committee report, which is appended below.

Development Plan Policies

These are detailed in full in the previous committee report, which is appended below. However, following the publication of the latest figures regarding the Council's Supply of Housing Land, further consideration as to how the development meets with policies CS1 of the Core Strategy and ST/2 of the Local Plan must be given.

At present, the Council cannot demonstrate a five year supply of deliverable housing sites and in such cases paragraph 49 of the Framework states that relevant policies for the supply of housing should not be considered up-to-date. Paragraph 14 of the Framework (the presumption in favour of sustainable development) states that where policies are out-of-date, planning permission should be granted unless the adverse impacts of doing so would significantly and demonstrably outweighs the benefits.

A recent Supreme Court judgement has clarified a number of matters in relation to the application of the presumption of sustainable development. For Charnwood, Core Strategy Policy CS1 and Local Plan policy ST/2 are the policies for the supply of housing. Whilst these policies are out-of-date, it remains for the decision taker to assess the weight of these policies. The Supreme Court judgement confirms that where policies for the

supply of housing are not considered up to date, they retain their statutory force, but the focus shifts to other material considerations. When making an assessment of weight it is necessary to consider the degree of consistency with the Framework, the degree to which policies restrict the supply of new housing, the purpose of the policy and if there is a 5 year shortfall, the action that is being taken to address it.

Policy CS1 defines a settlement hierarchy and the criteria for considering proposals within individual tiers of settlements. The Development Strategy set out in Policy CS1 seeks to guide development to locations that are well connected to jobs, services and infrastructure in order to provide a sustainable pattern of development. The Core Strategy supports sustainable development which contributes towards meeting our remaining development needs, supports our strategic vision, makes effective use of land and is in accordance with the policies in the Core Strategy. These matters do not all necessarily relate only to the supply of housing but also to the sustainability and suitability of differing types of settlement for new housing having regard to travel and patterns of movement and access to services and facilities. Whilst Policy CS1 is not up-to-date, and cannot be ascribed full weight, the policy has a role in delivering a sustainable pattern of development and, in the context of development within Loughborough is considered to carry substantial weight. Policy ST/2 acts as a counterpart to CS1. It defines the land which is considered to be within the urban area and that which is countryside. In doing so, it provides that part of the development strategy which seeks to manage patterns of development to ensure that landscape and the countryside are protected. The site in question is within the defined limits to Loughborough and is quite clearly is part of the urban area and as such this local plan policy is considered to carry substantial weight.

Material Considerations

-) The National Planning Policy Framework
-) The adopted Leading in Design Supplementary Planning Document (2006)

Relevant Planning History

As detailed in the previous committee report, which is appended below.

Responses of Statutory Consultees

These should be noted from the previous report. Only additional comments received following the Plans Committee meeting are set out below.

Third Party Representations

A local resident has submitted further information in support of the land being retained as open space. These documents include a Land Registry plan of the area, a copy of the reserved matters (P/92/2879/2) planning permission and a copy of a letter sent from the agents for the application to the local planning authority, where the open space for the development is mentioned.

Consideration of the Planning Issues

The main planning considerations are those set out in the appended report. However, following the previous report on the application, the Council can no longer demonstrate the required 5 year supply of housing land. This position has some impact on the consideration of the principle of the development. This issue is discussed further below in this report. Following the decision to defer a decision on the application, further information has been sought, at the Plans Committee's request, on the following:

-) How the land was described in the sales particulars when sold
-) The nature of the existing use of the land

The Sale of the Land

The sales particulars for when the land was auctioned in 2013 have been found. The land is described in the particulars as follows:

A level site of approximately 670 sq. yards (0.14 acres) of public open space.

The description however also makes reference to there being a potential for alternative uses on the site, subject to obtaining planning permission.

Whilst this suggests that the land was sold under the description of public open space, it must be borne in mind that this statement is a description of the use of the land by either the seller or the auctioneer. It is not a definitive or legal description of the land, nor does it dictate the future use of the land. Whilst members have requested this information, it is not a material consideration in the assessment of the proposal.

The Existing Use of the Land

Members have sought further clarification as to the nature of the existing use of the land. It is acknowledged that the site is shown as an area of open space on the original application plans for the design and layout of the estate. Reference to this is also made in letters received from the agent for the planning applications for the site, where open space is discussed.

The local planning authority can only deal with matters of planning law. In this case, there is no legal requirement under planning law for the land to be retained as public open space. Whilst reference is made in the decision notice for the Reserved Matters Planning Application P/92/2879/2 to drawings showing the land as open space, the retention of the land as public open space was not secured. In other words, whilst the plans showing the area of public open space were referred to in the decision notice, there is no condition or planning obligation attached to the planning permission to secure the retention of the land in perpetuity as public open space. Although the land was laid out and made available by the landowner at that time for use as an area of open space, the local planning authority cannot, in this case, insist that the use of the land is retained as such in the future. The new landowner has chosen to fence the land off to prevent public use, which is lawful and does not constitute a breach of planning control. This is because issues of planning law do not override individual property rights. The local planning authority has no powers to intervene or change the current activity at the site.

A Land Registry search on the site has been carried out, and there are no covenants on the land for it to be retained as public open space. The use of the land as open space is also not referenced anywhere on the Official Title Copy. The Land Registry search however is a matter of property law, not planning law, and therefore is not a material consideration in the assessment of this application.

As the land was set out and used as open space for a period of more than 10 consecutive years, in planning terms, there is an established use as open space. However, having an established use in planning terms does not negate that use being changed through the application process. The local planning authority must consider the application as presented, on its individual merits, which is for the provision of a C3 residential dwelling on the land. In planning terms there is no protection on the use of the land as public open space, and therefore no material considerations to indicate that the provision of a C3 dwelling on the land should be resisted on this basis. It is not therefore considered that a refusal of planning permission on these grounds could be sustained.

Conclusion

As set out previously, the proposal would provide a new market dwelling within Loughborough, a sustainable location for new development under Policy CS1 of the Core Strategy. The recent changes to the Council's supply of housing land means the weight that can be attached to policies CS1 of the Core Strategy and ST/2 of the Local Plan has altered. In assessing the principle of the development, paragraph 14 of the Framework requires local planning authorities to approve development proposals that accord with the development plan without delay unless any adverse impact of doing so would significantly and demonstrably outweigh the benefits. The provision of a dwelling on the site, within the development limits of a principle area for growth would make a contribution to the borough's housing land supply. As set below, it is not considered that there are any adverse impacts relating to the proposal which would significantly or demonstrably outweigh this benefit. It is therefore considered that development remains acceptable in principle.

The proposal complies with the guidelines relating to neighbouring amenity and highway safety. Subject to the landscape condition recommended below it is considered that the impact on the visual amenity of the area is acceptable and the development would result in no harm to the character of the area.

Under planning law, there is no formal protection of the land to be retained as public open space. Whilst the land may have been referred to as open space in correspondence relating to the original planning applications for the site, and used for this purpose for a period of time, the retention of the land for this use was not secured at that time, and, critically, cannot be secured now.

Whilst the sales particulars of the land, when it was sold, made reference to the site being open space, this is not a lawful definition of the use of the land. The Official Title Copy of the Land Registry also does not make reference to the land being public open space, or set out any covenants within, for the land to be retained as such. However both of these matters are not material considerations in the assessment of the planning application.

Overall, it remains the case that the local planning authority has no formal control over the protection and retention of the land as public open space. For the reasons set out above and the original report it is therefore recommended that the application is granted.

Recommendation

Grant Conditionally subject to the following conditions:

1. Application for approval of reserved matters shall be made within two years of the date of this permission and the development shall be begun not later than one year from the final approval of the last of the reserved matters.

REASON: To comply with the requirements of Section 92 of the Town and Country Planning Act 1990, as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

2. The development shall not commence until approval of the following reserved matters has been obtained in writing from the local planning authority:- a. landscaping.

REASON: To comply with the requirements of Section 92 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004

3. The development shall be carried out only in accordance with the details and specifications included in the submitted application, and shown on the following drawings:

-) ROC\571\PD\003A - Floor Plan and Elevations
-) ROC\571\PD\002 - Proposed Site Plan

REASON: To make sure that the scheme takes the form agreed by the authority and thus results in a satisfactory form of development.

4. Notwithstanding the details submitted, no materials shall be placed on the site until such time as samples of the facing bricks and any other materials to be used on the external walls and of the roofing slates, tiles and any other materials have been submitted for the agreement of the local planning authority. Only materials agreed in writing by the local planning authority shall be used in carrying out the development.

REASON: To make sure that the appearance of the completed development is satisfactory.

5. Within two months of the commencement of the development, a scheme for the treatment of the application site boundaries shall be submitted to the local planning authority in writing for approval.

REASON: To ensure the satisfactory, overall appearance of the completed development.

6. No use or occupation of the building hereby permitted shall take place until the scheme for boundary treatment, agreed under the terms of the above condition, has been fully completed.

REASON: To ensure the satisfactory, overall appearance of the completed development.

7. Within two months of the commencement of development, a landscaping scheme, to include those details specified below, shall be submitted to the local planning authority in writing for approval:
 - i) the treatment proposed for all ground surfaces, including hard areas;
 - ii) full details of tree planting;
 - iii) planting schedules, noting the species, sizes, numbers and densities of plants;
 - iv) finished levels or contours;
 - v) any structures to be erected or constructed;
 - vi) functional services above and below ground; and
 - vii) all existing trees, hedges and other landscape features, indicating clearly those to be removed.

REASON: To make sure that a satisfactory landscaping scheme for the development is agreed.

8. The landscaping scheme shall be fully completed, in accordance with the details agreed under the terms of the above condition, in the first planting and seeding seasons following the first occupation of any part of the development or in accordance with a programme previously agreed in writing by the local planning authority. Any trees or plants removed, dying, being severely damaged or becoming seriously diseased, within 5 years of planting shall be replaced in the following planting season by trees or plants of a size and species similar to those originally required to be planted.

REASON: To make sure that the appearance of the completed development is satisfactory and to help assimilate the development into its surroundings.

9. Notwithstanding the submitted information, prior to the first occupation of the dwelling hereby approved, a minimum of two 2.4m x 5.5m car parking spaces to the front of the dwelling shall be provided and made available for use. The spaces shall be surfaced in either a porous hard bound (not loose) material, or if a non-porous material is used, surface water shall be discharged into a suitable drainage system within the site. These spaces shall always remain available for the parking of vehicles and shall not therefore be used for any other purpose, at any time.

REASON: To ensure adequate off street car parking, in the interest of highway safety.

10. No vehicular access gates, barriers, bollards, chains or other such obstructions shall be erected to the vehicular access at any time without the approval of the Local planning Authority.

REASON: To enable vehicles to stand clear of the highway in order to protect the free and safe passage of traffic, including pedestrians, in the public highway.

11. Notwithstanding the provisions of The Town and Country Planning (General Permitted Development) (England) Order 2015, (or any order revoking and re-enacting that Order, with or without modifications), no openings or windows shall be inserted in the north-western (rear) elevation of the building, at either first floor or roof level.

REASON: To prevent undue overlooking of nearby dwellings, in the interests of the privacy of nearby residents.

12. Notwithstanding the provisions of The Town and Country Planning (General Permitted Development) (England) Order 2015, (or any order revoking and re-enacting that Order, with or without modifications), no gate, wall, fence or other means of enclosure shall be constructed or erected within 5 metres of the highway boundary onto Gisborough Way or within 4 metres of the highway boundary onto Byland Way.

REASON: In order to provide an open aspect to the front and side of the property, in the interests of the character and appearance of the area.

The following advice notes will be attached to a decision:

- 1 The decision has been reached taking into account paragraphs 186-187 of the National Planning Policy Framework and in accordance with the Town and Country Planning (Development Management Procedure) (England) Order 2010 (as amended).
- 2 DEVELOPMENT PLAN POLICIES RELEVANT TO THIS DECISION - Policies CS1, CS2 and CS15 of the Charnwood Local Plan 2011/2028 Core Strategy, policies EV/1 and TR/18 of the Borough of Charnwood Local Plan (adopted 12th January 2004) along with the provisions of the National Planning Policy Framework have been considered in reaching a decision on this application. The proposed development complies with the requirements of these policies and there are no other material considerations which are of significant weight in reaching a decision on this application.
- 3 Planning permission has been granted for this development because the Council has determined that, although representations have been received against the proposal, it is generally in accord with the terms of the above-mentioned policies along with the Council's adopted Supplementary Planning Document 'Leading in Design' and Backland and Tandem Development Supplementary Planning Guidance and, therefore, no harm would arise such as to warrant refusal of planning permission.
- 4 Care should be taken during site works to make sure that hours of operation, methods of work, dust and disposal of waste do not unduly disturb nearby residents.

- 5 This planning permission does not permit the carrying out of access alterations in the highway. Before such work can begin, separate permits or agreements will be required under the Highways Act 1980 from either the Adoptions team (for 'major' accesses) or the Highways Manager. For further information, including contact details, visit the County Council website as follows: -
For 'major' accesses - see Part 6 of the "6Cs Design Guide" at www.leics.gov.uk/6csdg
For other minor, domestic accesses, contact the Service Centre Tel: 0116 3050001.

APPENDIX: PREVIOUS REPORT TO PLANS COMMITTEE

Application Reference Number P/16/1833/2

Application Type:	Outline Planning Permission	Date Valid:	01/09/2016
Applicant:	Mr D Knight		
Proposal:	Site for the erection of 1 dwelling (revised scheme P/15/1638/2 refers).		
Location:	Land adjacent to 6 Gisborough Way Loughborough Leicestershire LE11 4FU		
Parish:	Loughborough	Ward:	Loughborough Garendon
Case Officer:	Louise Winson	Tel No:	01509 634742

This application is presented to the Plans Committee due to the complex planning history of the site and the significant public interest in the proposal. A previous scheme for the development of the site was also referred to the Plans Committee.

Site location and Description

This application seeks outline planning permission for one detached dwelling. Approval of the access, appearance, layout and scale are also sought at this time. The approval of landscaping is however reserved for a future reserved matters application.

The submitted plans make provision for a one and a half storey 3 bedroomed dwelling facing onto Byland Way. The nearest neighbouring property would be No5, Byland Way. The development would be situated 1.2 metres from the boundary with No.5, and 3 metres from the side elevation of the property. The dwelling would have a ridge height of 6.5 metres, with a footprint of 9.15 metres x 11 metres. The accommodation in the roof space would be facilitated by the provision of two dormer windows to the front elevation. Only two small high level en-suite windows are proposed to the rear elevation. The dwelling would be constructed of brick and tile, with the material schedule provided on the plans. Private amenity space for the new dwelling would be provided to the rear and side of the proposed dwelling.

Vehicular access to the site would be achieved from Byland Way. Two off-street car parking spaces would be provided to the front of the dwelling. The dwelling would also have an integral garage, resulting in three off-street car parking spaces being provided.

The site lies within a Primarily Residential Area as defined in policy CS1 of the Core Strategy and ST/2 of the Borough of Charnwood Local Plan. The street scene features dwellings of varying design types situated on differing plot sizes. The existing dwellings front Gisborough Way and Byland Way on a typically uniform building line.

The application site forms an area of open land on the corner of Gisborough Way and Byland Avenue, Loughborough.

The plot was originally set out and maintained as an area of open space by Jelson Homes as part of the construction of the surrounding housing development. Until recently, the land remained under the ownership of Jelson Homes and has never been offered to or adopted by the Borough Council as formal public open space and no requirement is contained in the previous permissions for the wider development. The housebuilder maintained the land and kept it open and landscaped until the land was sold in 2013.

Development Plan Policies

Charnwood Local Plan Core Strategy 2011- 2028 (Adopted 9th November 2015)

Policy CS1 – Development Strategy - sets out the development strategy and directions of growth for the Borough.

Policy CS2 - High Quality Design - requires developments to make a positive contribution to Charnwood, reinforcing a sense of place. Development should respect and enhance the character of the area, having regard to scale, massing, height, landscape, layout, materials and access; protect the amenity of people who live or work nearby and provide attractive well managed public and private spaces.

Policy CS13 – Biodiversity and Geodiversity - seeks to conserve and enhance the natural environment by supporting development that protects biodiversity and geodiversity.

Policy CS15 – Open Spaces, Sports and Recreation - responds positively to development which contributes to open space and recreation provision.

The Borough Of Charnwood Local Plan (Saved Policies) 2004

Policy ST/2 - Limits to Development - this policy seeks to restrict development to within the existing Limits to Development boundaries of existing settlements to ensure that development needs can be met without harm to the countryside or other rural interests.

Policy EV/1 – Design - seeks to ensure a high standard of design for developments which respect the character of the area, nearby occupiers, and is compatible in mass, scale, layout, whilst using landforms and other natural features. It should meet the needs of all groups and create safe places for people.

Policy TR/18 - Parking in New Development. – this seeks to set the maximum standards by which development should provide for off street car parking dependent on bedroom numbers.

Material Considerations

The National Planning Policy Framework

The Framework sets out the Government's planning policies for England, how these are expected to be applied and taken into account in the preparation of local and neighbourhood plans, and as a material consideration in the determination of planning decisions (Para 2).

The Framework states that the purpose of the planning system is to contribute to the achievement of sustainable development and that there are 3 dimensions to this

-) An economic role – contributing to building a strong, responsive and competitive economy, by ensuring that sufficient land of the right type is available in the right places to support growth and innovation*
-) A social role – supporting strong, vibrant and healthy communities by providing the supply of housing required to meet the needs of present and future generations, and by creating a high quality built development with accessible local services*
-) An environmental role – contributing to protecting and enhancing our natural, built and historic environment.*

At the heart of the Framework is a presumption in favour of sustainable development, which should be seen as a golden thread running through both plan-making and decision making. For decision taking this means:

-) Approving development proposals that accord with the development plan without delay and*
-) Where the development plan is absent, silent or relevant policies are out of date, granting planning permission, unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole; or where specific policies in the Framework indicate development should be restricted (Para 14 and 197).*

The Framework says that local planning authorities should approach decision-taking in a positive way to foster the delivery of sustainable development. The relationship between decision making and plan-making should be seamless, translating plans into high quality development on the ground (Para 186). It therefore requires local planning authorities to approve development proposals which accord with the local plan without delay. In assessing and determining development proposals, local planning authorities should apply the presumption in favour of sustainable development (Para 197).

The NPPF states that the government attaches great importance to the design of the built environment and that good design is a key aspect of sustainable development (para.56). Planning decisions should not attempt to impose architectural styles or tastes but should seek to reinforce local distinctiveness (para.60). Permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions (para.64).

Paragraph 32 of the Framework sets out that development should only be prevented or refused on highway grounds where the residual cumulative impacts of the development are severe.

The adopted Leading in Design Supplementary Planning Document (2006)

The adopted Leading in Design Supplementary Planning Document promotes higher design standards for new development. It sets out, amongst other things, minimum separation distances to limit the impact of new development on neighbouring properties.

Relevant Planning History

P/90/0591/2 – Site for Residential Development. This outline application was granted conditionally in August 1990.

P/92/2879/2 – Erection of 150 detached dwellings and semi-detached houses and bungalows (P/90/0591/2 refers). This reserved matters application was granted conditionally in April 1993.

P/93/2971/2 – Erection of 27 Houses and Bungalows (PLOTS 3, 7-8, 12-17, 21, 34-37, 44, 48-50, 54-58 & 66-69). This reserved matters application was granted conditionally in January 1994

P/14/1773/2 – Site for the erection of two detached dwellings. This outline application was presented to the Plans Committee on 26th March 2015 following a Ward Referral Report. Whilst the officer recommendation was that the application should be approved, members overturned this recommendation and refused planning permission on the following grounds:

The land occupies a prominent corner position on Gisborough Way and Byland Way and was set out as open space as part of the construction of the residential estate. It is the opinion of the local planning authority that the site functions as an Open Space of Special Character as defined in Policy EV/18 of the Borough of Charnwood Local Plan, as it was designed to be a visually attractive landscaped area of open space for wider public appreciation. The local planning authority considers that the provision of dwellings on the site would significantly harm the character of the area and the natural environment. The development is therefore contrary to the aims of paragraphs 17, 69 and 114 of the National Planning Policy Framework, in conflict with Policies CS2 and CS15 of the emerging Charnwood Local Plan Core Strategy 2006 - 2028 and saved Policies EV/1, H/16, EV/18 and RT/5 of the Borough of Charnwood Local Plan 2004, with weight being given to such policies according their consistency with the National Planning Policy Framework.

P/15/1638/2 – Site for the erection of 1 dwelling (Revised scheme – P/14/1773/2 refers). Following the committee resolution on the original application, this outline application was refused under delegated powers for the following reasons:

1. The land occupies a prominent corner position on Gisborough Way and Byland Way and was set out as open space as part of the construction of the residential estate. It is the opinion of the local planning authority that the site functions as an Open Space of Special

Character as defined in Policy EV/18 of the Borough of Charnwood Local Plan, as it was designed to be a visually attractive landscaped area of open space for wider public appreciation. The local planning authority considers that the provision of dwellings on the site would significantly harm the character of the area and the natural environment. The development is therefore contrary to the aims of paragraphs 17, 69 and 114 of the National Planning Policy Framework, in conflict with Policies CS2 and CS15 of the emerging Charnwood Local Plan Core Strategy 2006 -2028 and saved Policies EV/1, H/16, EV/18 and RT/5 of the Borough of Charnwood Local Plan 2004, with weight being given to such policies according to their consistency with the National Planning Policy Framework.

2. Outline planning permission for the development, along with the approval of the appearance, layout and scale of the proposed dwelling has been sought. The submitted scheme (other than the site plan) fails to provide any details regarding the appearance or scale of the proposed dwelling. An assessment of the visual impact of the dwelling on the character and appearance of the locality can therefore not be undertaken. In design terms, the development fails to comply with the aims of paragraphs 56 and 57 of the National Planning Policy Framework, saved policies EV/1 and H/16 of the Borough of Charnwood Local Plan 2004, in conflict with Policy CS2 of the emerging Charnwood Local Plan Core Strategy 2006-2028 and the adopted Leading in Design Supplementary Document.

Responses of Statutory Consultees

The Leicestershire County Council Highway Authority

The Highway Authority has raised no formal objection to the scheme, and has referred to the Highways Standing Advice along with the comments made on the previous schemes where the highway authority did not object subject to conditions applicable to those specific proposals being applied, if the local planning authority were minded to grant consent.

Other Comments Received

Ward Councillor Luke Smith

Objects to the proposal due to the loss of an area of open space.

County Councillor Max Hunt

Objects to the scheme due to the loss of an area of open space.

Neighbour comments

Twenty one letters of objection have been received from the owner/occupiers of the neighbouring properties. Concerns raised include the following:

-) The loss of an area of open space
-) The development would be out of keeping with the area
-) Loss of mature trees and landscaping

-) *Impact on wildlife*
-) *Noise and disturbance.*

Consideration of the Planning Issues

The main issues in the consideration of this application are as follows:

-) *The principle of the development*
-) *Loss of open space/amenity land*
-) *Design and the impact on the street scene*
-) *The impact on neighbouring amenity*
-) *The impact on Highway safety*
-) *Loss of landscaping and impact on ecology.*

The Principle of the Development

The starting point for decision making on all planning applications is that they must be made in accordance with the development plan unless material considerations indicate otherwise.

In this case, the site is situated within the limits to development for Loughborough, which is identified as a principle area for growth in policy CS1 of the Core Strategy. The application site forms a small parcel of land, situated amongst existing residential uses within development limits. The town centre is accessible, with the site benefiting from reasonable public transport links. The Gorse Covert Shopping Centre is also within 1 mile and is therefore reasonably accessible. The site is therefore considered to be a sustainable location for new housing development. Overall, having regard to these site attributes, it is considered that the proposal would be an effective use of land, and would accord with the provisions of policies CS1 of the Core Strategy, ST/2 of the Local Plan and the NPPF. The provision of a dwelling on the land is therefore considered to be acceptable in principle.

Loss of open space/amenity land

The current application seeks outline planning permission for one dwelling on the site following two previous refusals for residential development. One of the grounds for refusal was that the development would be contrary to policy EV/18 of the Local Plan. This policy seeks to retain land in public and private ownership identified on the proposals map which contributes to the character of a settlement either individually or as part of a wider network of open space.

Considerable local objection has been raised against the proposed development. Residents maintain that the application site is public open space/amenity land that was originally set aside for the benefit of the community under the original planning permission for the estate.

However, since the previous applications were refused, the policy context and other material considerations have changed. Following the adoption of the Core Strategy in November 2015, policy EV/18 of the Local Plan has expired and no longer forms part of the Development Plan and can therefore not be considered in the assessment of this

proposal. Further investigations confirm the land does not benefit from any formal protection as public open space under the existing planning permission either as a planning condition or under a legal agreement. Furthermore, the land has been fenced off for some time, which is acceptable in planning terms as there are no conditions on the planning permission which prevent this and it falls under permitted development rights. As such, any amenity value previously offered by the land in terms of the space being kept open is lost by it being fenced off from the public realm.

Therefore, whilst the land may have been kept open to the public as open space/amenity land in the past, there is no legal requirement under any of the planning permissions for the housing estate for it to be retained as public open space or amenity space in perpetuity. The housebuilder was also under no obligation to offer the land to the Borough Council, Parish Council or a management company. This remains the case with the new owners of the land.

Policy CS15 of the Core Strategy makes provision for the retention of areas of open space where there is an identified shortage in the locality. In the immediate locality of the estate, it is recognised that there is accessible amenity open space provision, however, within Loughborough as whole, there is an identified shortfall of amenity open space. Where it can be justified based on the evidence available, replacement provision should be sought in a suitable location. However, as the proposal is for a single dwelling, and, critically does not involve the loss of a formal area of public open space, it would be unreasonable to require the provision of replacement facilities in this case.

Given this context, with particular regard given to the land having no formal protection as open space or amenity land, it is considered that on balance and based on the status of this land, the development is acceptable in principle in the context of Policy CS15. The provision of a dwelling on the land would represent sustainable development in compliance with the provisions of policies CS1 of the Core Strategy, ST/2 of the Local Plan and the Framework.

Design and the Impact on the Street Scene

Policies CS2, of the Core Strategy, EV/1 of the Local Plan along with the guidance set out in the Leading in Design SPD promotes higher design standards to ensure new developments respect the character of the area, is compatible in mass, scale, and layout.

The dwelling would be positioned to face onto Byland Way and the building lines of the dwelling would be in keeping with the neighbouring properties along Byland Way and Gisborough Way with a similar footprint to the dwellings in the locality. Local concern has been expressed regarding the impact of the development on the character of the area. Whilst the site has been left open historically, it is considered that the provision of a dwelling as shown would assimilate well into the pattern of development on the estate. It is not considered that the proposal would appear cramped, or represent an overdevelopment of the site to the detriment of visual amenity. The site currently makes some contribution to the street scene as while it is fenced off, it is currently undeveloped land that provides space between the properties. However, this space is not considered to be significant to the layout of the estate, subject to a planning condition restricting the position of the boundary treatment to allow some openness to remain on the corner of the site. Space around the plot would be provided to the front, sides and rear, in keeping with

the design and layout of the estate. The footprint of the dwelling would also be similar those in the locality.

The landscaping of the site has been reserved for a future reserved matters application, meaning these details are not for consideration at this time. However, the submitted plans indicate an area of land facing onto Gisborough Way would benefit from landscaping to help soften the appearance of the side elevation of the dwelling and associated boundary fence when viewed from Gisborough Way. Planting could also be provided to the front of the dwelling along Byland Way. These details would however be secured under a future reserved matters application. The dwelling would be one and a half storey dwelling, with a ridge height of 6.5m. This would be in keeping with the character of the area, where single storey dwellings typically occupy corner plots. The dwelling would provide an individual design to the street scene. However, the existing character of the area is made up of a number of differently designed properties, which results in a varied street scene. It is therefore not considered that the design approach proposed would result in an incongruous or visually obtrusive feature in the street scene. The materials listed on the submitted plans are considered to be appropriate for the locality.

Overall, in design and layout terms it is considered that the development would assimilate well into the street scene. The proposal therefore complies with the provisions of policies CS2 of the Core Strategy and EV/1 of the Local Plan along with the guidance set out in the Leading in Design SPD.

The Impact on Neighbouring Amenity

Policies CS2 of the Core Strategy and EV/1 of the Local Plan along with the guidance in the Leading in Design SPD sets out design principles to ensure new development has no substantial impact on the amenities of neighbouring properties.

The nearest neighbouring dwellings to the development would be No.5 Byland Way and No.6 Gisborough Way. These neighbouring properties are both two storey detached dwellings. The new dwelling would be situated closest to No. 5 Byland Way, occupying a similar building line to this property. No.5 Byland Way has no principle windows in the side elevation to be affected by the development in terms of loss of light or privacy or over dominance. There are no windows proposed in the dwelling that would result in a loss of privacy to the occupiers of the neighbouring property. The position of the dwelling would also not have any substantial impact on the enjoyment of the private rear amenity space of No.5 Byland Way. Whilst situated to the north east of the application site, the roof design of the new dwelling, being pitched towards Byland Way, would allow late afternoon and evening sunlight to reach the rear garden area of No.5. The height of the dwelling, being 6.5m is not considered to have any overbearing impact on No.5. The off-street car parking for the new dwelling would be situated near to the side boundary of No.5 Byland Way. However, the parking area and integral garage belonging to No.5 is also situated close to this common boundary. It is therefore not considered that the provision of the parking spaces for the new dwelling would result in severe noise and disturbance to the occupiers of No.5 Byland Way.

The rear elevation of the new dwelling would face onto the side elevation and rear garden area of No.6 Gisborough Way. The rear garden area of the new dwelling would abut the rear garden area of No.6. The position of the new dwelling would be 10 metres away from

the side boundary of No.6, and would have no impact on the light to, or outlook from the neighbouring property, which has no principal main windows in the side elevation. Whilst the dwelling would be one and a half storey, there are no windows above ground floor level to cause any overlooking concerns into the rear garden area of No.6 Gisborough Way. Two small en-suite windows would be provided, however these would be obscurely glazed and situated at a high level meaning views out of the windows would not be possible.

A planning condition is recommended to prevent the addition of any further openings in the roof space of the dwelling, in the interests of preserving neighbouring amenity.

No other neighbouring properties would be affected by the development in terms of loss of light, privacy or over dominance.

Overall, it is considered that, subject to the imposition of the suggested planning conditions, the development would not have any substantial impact on the amenities of the neighbouring properties. The design and layout of the site complies with the minimum separation distances set out in the relevant policies listed above to prevent a loss of neighbouring amenity, In this regard, it is therefore considered that the development complies with the provisions of policies CS2 of the Core Strategy, EV1 of the Local Plan, the NPPF and the guidance contained in the Leading in Design SPD.

The Impact on Highway Safety

Policy TR/18 of the Local Plan and the Highway Authority 6Cs Design Guidance seeks to ensure the layout and design of new developments contributes to the safe operation of the highway network.

The Highway Authority has raised no formal objection to the scheme, and has referred to the Highways Standing Advice along with the comments made on the previous schemes where the highway authority did not object subject to conditions being attached if the proposals were approved.

Approval of the vehicular access and off-street car parking are sought under this outline planning application. The new vehicular access and off-street parking area would be located to the front of the dwelling, with access achieved from Byland Way. The submitted plans indicate that satisfactory access and off-street parking arrangements could be provided for the new dwelling, in accordance with the Highway Authority 6Cs Design Guidance and policy TR/18. Whilst the internal dimensions of the integral garage fall short of the minimum required by the Highway Authority, there is space to the front of the dwelling to provide two off-street parking spaces which meets with the standards of the Highway Authority for a three bedroomed dwelling. Conditions are recommended to ensure the access and parking spaces are provided and maintained in accordance with the 6Cs Design Guidance.

Concerns have been raised regarding the impact of the development on the traffic levels in the area. However, it is not considered that the additional traffic movements associated with one new dwelling would cause unacceptable harm to the amenity of the area. A refusal of planning permission on these grounds would be difficult to sustain.

Overall, it is considered that the development would not result in a severe impact on the safe operation of the highway network. The proposal complies with the provisions of the Highway Authority Standing Advice and Policy TR/18 of the Local Plan and it would be difficult to resist the proposal on highway safety grounds.

Loss of landscaping and impact on ecology

Policy CS13 of the Core Strategy seeks to conserve and enhance the natural environment by supporting development that protect biodiversity and geodiversity. In this regard, concern has been expressed regarding the removal of trees and landscaping from the site. However, the original trees and landscaping on the site did not benefit from any formal protection, meaning the planting could be removed at any time without requiring permission from the Local Planning Authority. The site has also been fenced off for some time with temporary fencing, which has generated further local concern. The provision of this fencing is, however, acceptable under permitted development rights, meaning the site could be fenced off regardless of the outcome of this planning application.

There is no evidence of the presence of protected species at the site and the site has no formal designation as a wildlife site. There is therefore no evidence to suggest that the proposed development would have a detrimental impact on protected species.

The proposal therefore complies with policy CS13 of the Core Strategy.

Other Issues

The Borough Council is in receipt of a request for the land to be compulsory purchased by the Council and made available for use as public open space. The local planning authority must determine the application placed before it in accordance with the Development Plan. With regards to this application, the site is not protected as open space under the Development Plan, and, as such, the use of the site as open space cannot be insisted upon by the local planning authority.

Local concern has been expressed regarding the erection of a temporary fence around the site. This temporary fence does not require planning permission. A permanent fence around the site could also be erected under permitted development rights at any time.

Conclusion

This proposal is for the development of land within the built framework of Loughborough. This is a sustainable location for development identified in policies CS1 of the Core Strategy and ST/2 of the Local Plan. The site, whilst it would appear was originally envisaged to form public open space or amenity land, does not benefit from any formal protection for such a use. Without such protection, it would be difficult to sustain a reason for refusal on the grounds that the development would result in a loss of public open space. This is particularly so given the land is in private ownership, fenced off and is no longer publicly accessible. For this reason, it is considered that the provision of a dwelling on the site is acceptable in principle.

The scale and layout of the dwelling is considered to be in keeping with the existing character and appearance of the locality. The dwelling would reflect the building lines of

the existing properties along Gisborough Way and Byland Way. The height of the building has been reduced in keeping with the other single storey dwellings which occupy corner plots on the estate. It is therefore considered that in design and layout terms, the proposal complies with the provisions of policies CS2 of the Core Strategy, EV/1 of the Local Plan, the NPPF and the guidance contained in the Leading in Design SPD.

Subject to the use of appropriate planning conditions, the development would have no substantial impact on neighbouring amenity. In this regard, it is considered that the development complies with the provisions of policies CS2 of the Core Strategy, EV/1 of the Local Plan, the NPPF and the guidance contained in the Leading in Design SPD.

The scheme can provide satisfactory vehicular access and off street car parking in accordance with the Highway Authority 6Cs Design Guidance and policy TR/18 of the Local Plan.

Recommendation

Grant Conditionally subject to the following conditions:

- 1. Application for approval of reserved matters shall be made within two years of the date of this permission and the development shall be begun not later than one year from the final approval of the last of the reserved matters.*

REASON: To comply with the requirements of Section 92 of the Town and Country Planning Act 1990, as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

- 2. The development shall not commence until approval of the following reserved matters has been obtained in writing from the local planning authority:- a. landscaping.*

REASON: To comply with the requirements of Section 92 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004

- 3. The development shall be carried out only in accordance with the details and specifications included in the submitted application, and shown on the following drawings:*

-) ROC\571\PD\003A - Floor Plan and Elevations*
-) ROC\571\PD\002 - Proposed Site Plan*

REASON: To make sure that the scheme takes the form agreed by the authority and thus results in a satisfactory form of development.

- 4. Notwithstanding the details submitted, no materials shall be placed on the site until such time as samples of the facing bricks and any other materials to be used on the external walls and of the roofing slates, tiles and any other materials have been submitted for the agreement of the local planning authority. Only materials agreed in writing by the local planning authority shall be used in carrying out the development.*

REASON: To make sure that the appearance of the completed development is satisfactory.

5. *Within two months of the commencement of the development, a scheme for the treatment of the application site boundaries shall be submitted to the local planning authority in writing for approval.*

REASON: To ensure the satisfactory, overall appearance of the completed development.

6. *No use or occupation of the building hereby permitted shall take place until the scheme for boundary treatment, agreed under the terms of the above condition, has been fully completed.*

REASON: To ensure the satisfactory, overall appearance of the completed development.

7. *Within two months of the commencement of development, a landscaping scheme, to include those details specified below, shall be submitted to the local planning authority in writing for approval:*

- i) the treatment proposed for all ground surfaces, including hard areas;*
- ii) full details of tree planting;*
- iii) planting schedules, noting the species, sizes, numbers and densities of plants;*
- iv) finished levels or contours;*
- v) any structures to be erected or constructed;*
- vi) functional services above and below ground; and*
- vii) all existing trees, hedges and other landscape features, indicating clearly those to be removed.*

REASON: To make sure that a satisfactory landscaping scheme for the development is agreed.

8. *The landscaping scheme shall be fully completed, in accordance with the details agreed under the terms of the above condition, in the first planting and seeding seasons following the first occupation of any part of the development or in accordance with a programme previously agreed in writing by the local planning authority. Any trees or plants removed, dying, being severely damaged or becoming seriously diseased, within 5 years of planting shall be replaced in the following planting season by trees or plants of a size and species similar to those originally required to be planted.*

REASON: To make sure that the appearance of the completed development is satisfactory and to help assimilate the development into its surroundings.

9. *Notwithstanding the submitted information, prior to the first occupation of the dwelling hereby approved, a minimum of two 2.4m x 5.5m car parking spaces to the front of the dwelling shall be provided and made available for use. The spaces shall be surfaced in either a porous hard bound (not loose) material, or if a non-porous*

material is used, surface water shall be discharged into a suitable drainage system within the site. These spaces shall always remain available for the parking of vehicles and shall not therefore be used for any other purpose, at any time.

REASON: To ensure adequate off street car parking, in the interest of highway safety.

10. No vehicular access gates, barriers, bollards, chains or other such obstructions shall be erected to the vehicular access at any time without the approval of the Local planning Authority..

REASON: To enable vehicles to stand clear of the highway in order to protect the free and safe passage of traffic, including pedestrians, in the public highway.

11. Notwithstanding the provisions of The Town and Country Planning (General Permitted Development) (England) Order 2015, (or any order revoking and re-enacting that Order, with or without modifications), no openings or windows shall be inserted in the north-western (rear) elevation of the building, at either first floor or roof level.

REASON: To prevent undue overlooking of nearby dwellings, in the interests of the privacy of nearby residents.

12. Notwithstanding the provisions of The Town and Country Planning (General Permitted Development) (England) Order 2015, (or any order revoking and re-enacting that Order, with or without modifications), no gate, wall, fence or other means of enclosure shall be constructed or erected within 5 metres of the highway boundary onto Gisborough Way or within 4 metres of the highway boundary onto Byland Way.

REASON: In order to provide an open aspect to the front and side of the property, in the interests of the character and appearance of the area.

The following advice notes will be attached to a decision:

- 1 The decision has been reached taking into account paragraphs 186-187 of the National Planning Policy Framework and in accordance with the Town and Country Planning (Development Management Procedure) (England) Order 2010 (as amended).*
- 2 DEVELOPMENT PLAN POLICIES RELEVANT TO THIS DECISION - Policies CS1, CS2 and CS15 of the Charnwood Local Plan 2011/2028 Core Strategy, policies EV/1 and TR/18 of the Borough of Charnwood Local Plan (adopted 12th January 2004) along with the provisions of the National Planning Policy Framework have been considered in reaching a decision on this application. The proposed development complies with the requirements of these policies and there are no other material considerations which are of significant weight in reaching a decision on this application.*

- 3 *Planning permission has been granted for this development because the Council has determined that, although representations have been received against the proposal, it is generally in accord with the terms of the above-mentioned policies along with the Council's adopted Supplementary Planning Document 'Leading in Design' and Backland and Tandem Development Supplementary Planning Guidance and, therefore, no harm would arise such as to warrant refusal of planning permission.*
- 4 *Care should be taken during site works to make sure that hours of operation, methods of work, dust and disposal of waste do not unduly disturb nearby residents.*
- 5 *This planning permission does not permit the carrying out of access alterations in the highway. Before such work can begin, separate permits or agreements will be required under the Highways Act 1980 from either the Adoptions team (for 'major' accesses) or the Highways Manager. For further information, including contact details, visit the County Council website as follows: -
For 'major' accesses - see Part 6 of the "6Cs Design Guide" at www.leics.gov.uk/6csdg
For other minor, domestic accesses, contact the Service Centre Tel: 0116 3050001.*

